

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JOSEPH A. FERRARA, SR., et al.,

Plaintiffs,

- against -

ALL-AROUND TRUCKING INC.,

Defendant.
-----X

ROSLYNN R. MAUSKOPF, United States District Judge.

ORDER
10-CV-5845 (RRM)(RLM)

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ DEC 02 2011 ★

BROOKLYN OFFICE

This action was commenced on December 16, 2010, by Joseph Ferrara, Sr., Frank Finkel, Denise Richardson, Thomas Corbett, Anthony D'Aquila, Thomas Gesualdi, Louis Bisignano, Dominick Marrocco, and Anthony Pirozzi ("plaintiffs" or "trustees"), as trustees of the Local 282 International Brotherhood of Teamsters Welfare, Pension, Annuity, Job Training, and Vacation and Sick Leave Trust Funds (the "Funds"), a group of multiemployer employee benefit plans as defined by the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1002(3). Plaintiffs sued under ERISA, as amended, 29 U.S.C. §§ 1132(a)(3), 1145, to compel defendant All-Around Trucking Inc. ("defendant" or "All-Around Trucking") to submit to an audit and pay employer contributions it allegedly owes to the Funds. (*See* Compl. (Doc. No. 1) ¶ 34.) Plaintiffs assert that defendant was a party to collective bargaining agreements that required defendant to submit to periodic audits and make specified contributions to the Funds. (*Id.* at ¶¶ 9-13.)

Though properly served, defendant has not answered or otherwise appeared in the action, and on January 31, 2011, the Clerk of the Court noted defendant's default. (*See* Clerk's Entry of Default (Doc. No. 8).) Plaintiffs moved for a default judgment pursuant to Rule 55 of the

Federal Rules of Civil Procedure, and on February 11, 2011, the Court referred plaintiffs' motion for a default judgment to the assigned Magistrate Judge, the Honorable Roanne L. Mann, for a report and recommendation (the "R&R") in accordance with 28 U.S.C. § 636(b). Thereafter, Judge Mann ordered defendant to show cause by June 7, 2011, as to why a default judgment should not be entered. (Order to Show Cause (Doc. No. 15).) Defendant failed to respond to the order to show cause.

On November 8, 2011, Judge Mann issued an R&R recommending that default judgment enter in favor of plaintiffs in the total amount of \$344,621.08. Judge Mann reminded the parties that, pursuant to Rule 72(b), any objections were due on or before November 25, 2011. To date, no party has filed any objections.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

Accordingly, the R&R is adopted in its entirety, and it is hereby ORDERED that plaintiff's motion for default judgment (Doc. No. 11) is GRANTED. Judgment shall enter in favor of plaintiff and as against defendant All-Around Trucking, Inc. in the total sum of \$344,621.08, and for prejudgment interest, which the Clerk of Court shall calculate based on a 1.5% monthly interest rate and a principal balance of \$283,615.52 from May 1, 2010, through the date judgment is entered.

The Clerk of Court is directed to enter judgment accordingly, mail a copy of this Order and the judgment to defendant care of Phyllis Cirillo, 152 McLean Avenue, Staten Island, New York 10305, and close this case.

SO ORDERED.

Dated: Brooklyn, New York
December 2, 2011

s/Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge